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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

RSW920010223US1/5577-352

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on January 20, 2006

Signature

Typed or printed
name

Traci A. Brown

Application Number

10/007,581

Filed

December 5, 2001

First Named Inventor

Roy F. Brabson

Art Unit

2135

Examiner

Joseph T. Pan

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒

attorney or agent of record.

Registration number 38,904☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒*Total of 1 forms are submitted.

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**RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE – EXAMINING GROUP 2135**

Attorney's Docket No.: RSW920010223-US1/5577-352

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Brabson et al.

Serial No.: 10/007,581

Filed: December 5, 2001

For: **OFFLOAD PROCESSING FOR SECURITY SESSION ESTABLISHMENT AND
CONTROL**

Confirmation No.: 3407

Group Art Unit: 2135

Examiner: Joseph T. Pan

Date: January 20, 2006

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Traci A. Brown

**REASONS IN SUPPORT OF APPLICANTS'
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

This document is submitted in support of the Pre-Appeal Brief Request for Review that is filed concurrently herewith along with a Notice of Appeal in compliance with 37 C.F.R. 41.31 and with the rules set out in the OG Notice of July 12, 2005 for the New Appeal Brief Conference Pilot Program.

It is not believed that an extension of time and/or additional fee(s)-including fees for net addition of claims-are required, beyond those that may otherwise be provided for in documents accompanying this paper. In the event, however, that an extension of time is necessary to allow consideration of this paper, such an extension is hereby petitioned under 37 C.F.R. §1.136(a). Any additional fees believed to be due in connection with this paper may be charged to our Deposit Account 09-0461.

REMARKS

Applicants hereby request a Pre-Appeal Brief Review (hereinafter "Request") of the claims finally rejected in the Final Office Action mailed October 20, 2005 ("Final Office Action") and the Advisory Opinion mailed January 9, 2006 ("Advisory Opinion"). The Request is provided herewith in accordance with the rules set out in the OG dated July 12, 2005.

Claims 1-12, 14, 16-18, 20 and 22-35 stand finally rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,175,917 to Arrow et al. ("Arrow").

Applicants submit that the rejections are based on a clear error in understanding the applied reference, and that the Final Office Action and Advisory Opinion have failed to establish anticipation of the Claims. Accordingly, Applicants request review of the present application by an appeal conference prior to the filing of an appeal brief. In the interest of brevity and without waiving the right to argue additional grounds should this Petition be denied, Applicants will only discuss some particular errors made in the rejections of the independent Claims 1 and 33-35.

In brief, Arrow discloses an enterprise-wide virtual private network (VPN) for securing communications of an application program running in a host computer using a VPN unit implemented in software in the host computer. The Final Office Action and the Advisory Opinion erroneously assert that security processing performed by the software-based VPN unit of Arrow is initiated at the direction of the host processor operating system rather than at the direction of the VPN control unit. This assertion is made without citation of any specific teaching of Arrow that security processing is initiated at the request of the host computer operating system and despite the fact that such operation would defeat the purpose of having an enterprise-managed VPN system. Based on this erroneous understanding of Arrow, the Final Office Action and the Advisory Opinion conclude that Arrow anticipates Claim 1, which is directed to a method of providing security processing for an application program at the initiation of a local host operating system under which the application program is running - i.e. the opposite of enterprise-managed security processing as taught by Arrow.

Independent Claim 1 recites (emphasis added):

1. A method of performing security processing in a computing network comprising a local unit having an operating system kernel executing at least one application program, comprising:
receiving a first request at the operating system kernel from the application program to initiate a communication with a remote unit;
providing a second request from the operating system kernel to a security offload component which performs security handshake processing, the second request directing the security offload component to secure the communication with the remote unit; and
providing a control function in the operating system kernel for initiating operation of the security handshake processing by the security offload component.

Similarly, Independent Claim 33 recites (emphasis added):

33. A method of performing security processing in a computing network including a local unit having an operating system kernel executing at least one application program, comprising:

providing a security offload component which performs security session establishment and control processing;

providing a control function in the operating system kernel for initiating operation of the security session establishment and control processing by the security offload component;

receiving a request at the operating system kernel from the application program to initiate a communication with a remote unit; and
directing the security offload component to secure the communication with the remote unit in response to the request.

Independent Claims 34-35 are system and computer program product claims containing recitations similar to those of Independent Claim 33. Applicants respectfully submit that at least the highlighted recitations of Claims 1 and 33, and the corresponding recitations of Claims 34-35, are not disclosed by Arrow. Accordingly, the Final Office Action and Advisory Opinion have failed to establish anticipation of Claim 1 or Claims 33-35.

In rejecting Claim 1, the Final Office Action erroneously contends on Page 2 that Arrow teaches providing a second request from the operating system to a security offload component which performs security handshake processing, the second request directing the security offload component to secure the communication with the remote unit. In making this rejection, the Final Office Action has merely copied the recitations of Claim 1 and provided no specific explanation of how the cited portions of Arrow disclose this recitation.

In the August 22, 2005 Amendment and the December 15, 2005 Request for Reconsideration, the Applicants pointed out that Arrow discloses a virtual private network (VPN) in which VPN units perform security management functions for VPN clients over a shared network, and that the security processing is not controlled by the VPN client. Rather, as expressly stated by Arrow, the VPN units are controlled by a VPN management station 160 "through commands and configuration information transmitted to the respective VPN unit" through a public network. (Arrow, col. 6, ll. 31-34.) Arrow further states expressly that "secure data communications between end users are achieved in a way that is transparent to the end users." (Arrow, col. 7, ll. 5-7.) Accordingly, Arrow teaches an enterprise-managed security system designed to permit users to communicate transparently with one another in a secure manner across insecure public networks, i.e. a VPN.

In sharp contrast to the VPN security processing system of Arrow that is controlled by a remote VPN management station, Claim 1 recites "receiving a first request at the operating system kernel from the application program to initiate a communication with a remote unit" and

"providing a second request from the operating system kernel to a security offload component which performs security handshake processing, the second request directing the security offload component to secure the communication with the remote unit." Thus in a system according to Claim 1, security processing is not controlled by a remote VPN management station, but rather is initiated in response to a first request at the operating system kernel from the application program to initiate a communication with a remote unit, which is followed by a second request from the operating system kernel to a security offload component directing the security offload component to secure the communication with the remote unit. Unlike a VPN, a method as recited in Claim 1 need not require enterprise-wide coordination.

The Final Office Action notes that VPN units may be implemented as software that "operates in conjunction with the communication software for connecting a remote client with its associated Internet Service Provider." Final Office Action at 13. The Final Office Action concludes that "therefore, for remote clients, VPN units 145, 155 are not controlled by the VAN (sic) management station 160." Id. (emphasis added).

Applicant respectfully submits that this understanding of Arrow is erroneous. The Final Office Action cites no passage from Arrow in support of this conclusion. In contrast, Arrow expressly states that the system disclosed therein includes "VPN units 115, 125, 135, 145 and 155 operating under the control of VPN management station 160." (Arrow, col. 5, ll. 51-53)(emphasis added).

Thus, for purposes of controlling security processing, Arrow makes no distinction between VPN units that are implemented in software and those that are implemented as standalone hardware units. For example, Arrow further states that "[o]ne function of VPN management station 160 is to manage the configuration of VPN units, such as VPN unit 115, through issuance of configuration requests." (Arrow, col. 14, ll. 33-35) (emphasis added). Applicants can find no indication that the VPN management station of Arrow does not manage the configuration of VPN units that are implemented in software, as asserted in the Final Office Action. Furthermore, as Arrow expressly says that the VPN management station 160 is controlling the operation of the VPN units such as VPN units 145, 155, it is illogical and contrary to the teaching of Arrow to conclude that the VPN management station is controlling something other than the security processing operations of the VPN units.

Thus, the fact that some VPN units of Arrow may be implemented in software is immaterial to the patentability of Independent Claims 1 and 33-35. Regardless of how the VPN

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units are implemented, Arrow does not teach that security processing of the VPN units is initiated by a request sent from the operating system kernel to a security offload component which performs security handshake processing in response to request at the operating system kernel from an application program to initiate a communication with a remote unit, as recited in Claim 1. Accordingly, Applicants respectfully submit that Arrow does not anticipate Claim 1, and respectfully request that the rejection of Claim 1 be withdrawn.

Similarly, Arrow does not teach receiving a request at the operating system kernel from the application program to initiate a communication with a remote unit, and directing the security offload component to secure the communication with the remote unit in response to the request, as recited in Claim 33. Accordingly, Applicants respectfully submit that Arrow does not anticipate Claim 33, and respectfully request that the rejection of Claim 33 be withdrawn.

For at least these reasons, Applicants submit that the Final Office Action and Advisory Opinion have failed to establish that Arrow discloses the underlined recitations of Claims 1 and 33, and, consequently, have failed to provide show anticipation of Claim 1.

Independent Claims 34-35 contain recitations similar to the underlined portions of Claim 33. Consequently, Applicants submit that the Final Office Action and Advisory Opinion have failed to provide show anticipation of Claims 34-35 for the reasons explained above for Claim 33.

The dependent claims are patentable per the patentability of the independent claims from which they depend. Accordingly, Applicants respectfully request that the present application be allowed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Hall", written over a horizontal line.

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